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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 02-56]
RIN 1515-AD17

Extension of Import Restrictions Imposed on Archaeological Material
From Guatemala

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: In T.D. 97-81, the Customs Regulations were amended to reflect the imposition of import restrictions on certain archaeological material from Guatemala. These restrictions were imposed pursuant to a Memorandum of Understanding between the United States and Guatemala (the MOU) that was entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Recently, the United States Department of State determined that conditions continue to warrant the imposition of these import restrictions for a period not to exceed 5 years. The Governments of the United States and Guatemala exchanged diplomatic notes agreeing to extend the MOU. Thus, this document amends the Customs Regulations to reflect that the import restrictions currently in place continue, without interruption, for a period not to exceed five years from September 29, 2002. T.D. 97-81 contains the List of Designated Archaeological Material from Guatemala that describes the articles to which the restrictions and this extension of restrictions apply.

EFFECTIVE DATE: This regulation and the extension of import restrictions reflected in this regulation become effective on September 29, 2002.

FOR FURTHER INFORMATION CONTACT: (Regulatory Aspects) Joseph Howard, Intellectual Property Rights Branch (202) 572-8701; (Operational Aspects) Al Morawski, Trade Operations (202) 927-0402.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U. S. law as the Convention on Cultural Property Implementation Act (Public Law 97-446, 19 U.S.C. 2601 et seq)(the Act), the United States entered into a bilateral agreement with Guatemala on September 29, 1997 (Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Guatemala Concerning the Imposition of Import Restrictions on Archaeological Objects and Materials from the Pre-Columbian Cultures of Guatemala) (the MOU), concerning the imposition of import restrictions on certain archaeological material from Guatemala. The U.S. Customs Service issued T.D. 97-81 (62 FR 51771, October 3, 1997) amending Sec. 12.104g(a) of the Customs Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions for a period not to exceed five years. The restrictions cover Maya material from the Peten Lowlands and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. The restrictions became effective on October 3, 1997.

Prior to the issuance of T.D. 97-81, Customs issued T.D. 91-34 (56 FR 15181, April 15, 1991) that imposed emergency import restrictions on certain archaeological material from the Peten Region of Guatemala. Under T.D. 91-34, Sec. 12.104g(b) (19 CFR 12.104g(b)) of the regulations pertaining to emergency restrictions was amended accordingly. These emergency restrictions were extended for a period of three years under T.D. 94-84 (59 FR 55528, November 7, 1994). Subsequently, the same archaeological material covered by T.D. 91-34 (and the extension of T.D. 94-84) was subsumed in T.D. 97-81 when it was published in 1997, at which time the emergency restrictions of T.D. 91-34 (and T.D. 94-84) were removed from Sec. 12.104g(b).

On August 18, 2002, the Assistant Secretary of Educational and Cultural Affairs, Department of State, concluded, among other things, that the cultural patrimony of Guatemala continues to be in jeopardy from pillage of irreplaceable materials representing its Pre-Columbian heritage and made the necessary determinations under 19 U.S.C. 2602(e) and 2602(a) to extend the import restrictions for a period not to exceed five years (in the Determination to Extend the MOU). The Government of the United States and the Government of the Republic of Guatemala exchanged diplomatic notes on September 20, [[Page 61260]] 2002, agreeing to extend the MOU effective September 29, 2002.

Accordingly, Customs is amending Sec. 12.104g(a) to reflect the extension of the import restrictions.

The List of Designated Archaeological Material from Guatemala describing the materials covered by these import restrictions is set forth in T.D. 97-81. The list and accompanying image database may also be found at the following internet Web site address: <http://culturalheritage.state.gov>.

The restrictions on the importation of these archaeological materials from Guatemala are to continue in effect for five years from September 29, 2002. Importation of these materials continues to be

restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document extends import restrictions already imposed on the above-listed cultural property of Guatemala by the terms of a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to the Administrative Procedure Act (5 U.S.C. 553(a)(1)), notice of proposed rule-making, public procedure, and a delayed effective date are not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in Executive Order 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspections, Imports.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12--[AMENDED]

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;
* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;
* * * * *

Sec. 12.104g [Amended]

2. In Sec. 12.104g(a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Guatemala by adding ``extended by T.D. 02-56'' immediately after ``T.D. 97-81'' in the column headed ``T.D. No.''.

Robert C. Bonner,
Commissioner of Customs.
Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.
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